

1. Chapter 7, section 1; section 2; section 3, subsection 1; section 3, subsection 2; section 3, subsection 3; section 3, subsection 4; and section 3, subsection 9;
2. Chapter 10, section 7, subsection 5, paragraph a; section 7, subsection 8, paragraph a;
3. Chapter 12, section 9, subsection 1; section 12, subsection 2, paragraph c; and
4. Chapter 8, section 8, subsection 4.

Sec. 38. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Daily Iowan*, a newspaper published in Iowa City, Iowa, and in *The Sioux City Journal*, a newspaper published in Sioux City, Iowa.

Approved March 12, 1982

I hereby certify that the foregoing Act, House File 2336 was published in *The Daily Iowan*, Iowa City, Iowa on March 18, 1982 and in *The Sioux City Journal*, Sioux City, Iowa on March 18, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1258

CRIMINAL JUSTICE AND VICTIM REPARATION PROGRAMS AND APPROPRIATIONS

H.F. 2493

AN ACT relating to criminal justice programs by imposing a ten percent penalty assessment surcharge on certain fines and forfeitures, establishing a crime victim reparation program, striking certain references to a criminal justice improvement fund in Acts of the Sixty-ninth General Assembly, 1981 Session, and making appropriations to certain departments for criminal justice programs, and a victim reparation program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. CRIMINAL PENALTY SURCHARGE ESTABLISHED.** A criminal penalty surcharge shall be levied against certain law violators as provided in section 2 of this Act. The surcharge shall be deposited as provided in section 3 of this Act and shall be used for the maintenance and improvement of criminal justice programs, law enforcement efforts, victim reparation, crime prevention, and improvement of the professional training of personnel, and the planning and support services of the criminal justice system.

Sec. 2. **NEW SECTION. TEN PERCENT SURCHARGE.** When a court imposes a fine or forfeiture for a violation of a state law, or of a city or county ordinance except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a surcharge equal to ten percent of the fine or forfeiture imposed. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended. This section applies only with respect to criminal actions commenced on or after July 1, 1982.

Sec. 3. NEW SECTION. DISPOSITION OF SURCHARGE. When a court assesses a surcharge under section 2 of this Act, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit the money in the general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer for deposit in the county court expense fund or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 4. VICTIM REPARATION INTENT. It is the intent of the general assembly to provide a program for compensating and assisting innocent victims of violent criminal acts who suffer bodily injury or death as a consequence, and for encouraging greater public cooperation in the successful apprehension and prosecution of criminal offenders. It is also the intent of the general assembly that the department of public safety, each county attorney, and each local law enforcement agency shall publicize the crime victim reparation program and promote the use of the program.

Sec. 5. NEW SECTION. DEFINITIONS. As used in sections 5 through 16 of this Act, unless the context otherwise requires:

1. "Department" means the department of public safety.
2. "Commissioner" means the commissioner of the department or the commissioner's designee.
3. "Victim" means a person who suffers personal injury or death as a result of any of the following:
 - a. A crime.
 - b. The good faith effort of a person attempting to prevent a crime.
 - c. The good faith effort of a person to apprehend a person suspected of committing a crime.
4. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, an aggravated misdemeanor, or a serious misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except when the intention is to cause personal injury or death.
5. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.
6. "Reparation" means compensation awarded by the commissioner as authorized by sections 5 through 16 of this Act.

Sec. 6. NEW SECTION. AWARD OF REPARATION. The commissioner shall award reparations authorized by sections 5 through 16 of this Act if the commissioner is satisfied that the requirements for reparation have been met.

Sec. 7. NEW SECTION. DUTIES OF COMMISSIONER. The commissioner shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim reparation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.
2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.
3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim reparation program, including the procedures for obtaining reparation under the program.

4. Request from the department of social services, the Iowa department of job service, the industrial commissioner, the attorney general, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim reparation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if reparation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim reparation program if reparation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

6. Render to the governor and the general assembly by January 1, 1984, a written report of activities undertaken for the crime victim reparation program.

Sec. 8. NEW SECTION. APPLICATION FOR REPARATION.

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime or within one hundred twenty days after the date of death of the victim.

2. A person is not eligible for reparation unless the crime was reported to the local police department or county sheriff department within twenty-four hours of its occurrence. However, if the crime cannot reasonably be reported within that time period, the crime shall have been reported within twenty-four hours of the time a report can reasonably be made.

Sec. 9. NEW SECTION. REPARATIONS PAYABLE. The commissioner may order the payment of reparation:

1. To or for the benefit of the person filing the claim.

2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.

3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to a reparation, the reparation may be apportioned by the commissioner as the commissioner determines to be fair and equitable among the dependents.

Sec. 10. NEW SECTION. COMPUTATION OF REPARATION. The commissioner shall make reparation as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim, not to exceed two thousand dollars per victim unless otherwise specified:

1. Reasonable charges incurred for medical care.

2. Loss of income from work the victim would have performed and received compensation for if the victim had not been injured.

3. Reasonable replacement value of clothing that is held for evidentiary purposes, but not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed one thousand dollars.

Sec. 11. NEW SECTION. REDUCTIONS AND DISQUALIFICATIONS. Reparations are subject to reduction and disqualification as follows:

1. A reparation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, the person who committed the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

d. As an emergency award under section 15 of this Act.

2. A reparation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

- a. Consent, provocation, or incitement by the victim.
- b. An act committed by a person living in the same household with the victim, unless a criminal conviction for the act is obtained.
- c. An act committed by a person who is, at the time of the criminal act, the spouse, child, stepchild, parent, stepparent, brother, stepbrother, sister, or stepsister of the victim, or the parent or stepparent of the victim's spouse, or a brother, stepbrother, sister, or stepsister of the victim's spouse, unless a criminal conviction for the act is obtained.
- d. The victim assisting, attempting, or committing a criminal act.

3. A person is disqualified from receiving a reparation if the victim has not cooperated with an appropriate law enforcement agency in the investigation or prosecution of the crime relating to the claim, or has not cooperated with the department in the administration of the crime victim reparation program.

Sec. 12. NEW SECTION. REPARATION WHEN MONEY INSUFFICIENT. Notwithstanding sections 5 through 16 of this Act a victim otherwise qualified for a reparation under the crime victim reparation program, is not entitled to the reparation when there is insufficient money from the appropriation for the program to pay the reparation.

Sec. 13. NEW SECTION. ERRONEOUS OR FRAUDULENT PAYMENT — PENALTY.

1. If a payment or overpayment of a reparation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the reparation. The commissioner may waive, decrease, or adjust the amount of the repayment of the reparation. However, if the commissioner does not notify the recipient of the erroneous payment or overpayment within one year of the date the reparation was made, the recipient is not liable for the repayment of the reparation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the reparation.

Sec. 14. NEW SECTION. RELEASE OF INFORMATION. A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for a reparation shall allow the inspection and reproduction of the information by the commissioner upon the request of the commissioner, to be used only in the administration and enforcement of the crime victim reparation program. Information and records which are confidential under section 68A.7 and information or records received from the confidential information or records remain confidential under this section.

A person does not incur legal liability by reason of releasing information to the commissioner as required under this section.

Sec. 15. NEW SECTION. EMERGENCY PAYMENT REPARATION. If the commissioner determines that reparation may be made and that undue hardship may result to the person if partial immediate payment is not made, the commissioner may order an emergency reparation to be made to the person, not to exceed five hundred dollars.

Sec. 16. NEW SECTION. RIGHT OF ACTION AGAINST PERPETRATOR — SUBROGATION. A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving reparation under the crime victim reparation program. If a person receiving reparation under the program seeks indemnification which would reduce the reparation under section 11, subsection 1 of this Act, the commissioner is subrogated to the recovery to the extent of payments by the commissioner to or on behalf of the person. The commissioner has a right of legal action against a person who has

committed a crime resulting in payment of reparation by the department to the extent of the reparation payment. However, legal action by the commissioner does not affect the right of a person to seek further relief in other legal actions.

Sec. 17. NEW SECTION. SUNSET CLAUSE. Sections 4 through 16 of this Act are repealed effective July 1, 1984.

Sec. 18. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 19. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 6, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 20. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 21. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 1, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 22. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 2, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 23. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 3, subsection 3, is amended by striking the subsection.

Sec. 24. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the following amounts, or as much thereof as is necessary, to be used for the purposes designated:

| | <u>1981-1982</u> | <u>1982-1983</u> |
|---|--------------------|--------------------|
| | <u>Fiscal Year</u> | <u>Fiscal Year</u> |
| 1. DEPARTMENT OF PUBLIC SAFETY | | |
| a. For undercover purchases of drugs by the division of criminal investigation agents and local law enforcement agents | \$ | \$ 200,000 |
| b. For salaries, support, maintenance, and miscellaneous purposes for improvement of laboratory services provided by the division of criminal investigation to local law enforcement agencies | \$ | \$ 200,000 |
| c. For the development and operation of a pilot program for the crime victim reparation program pursuant to sections 5 through 16 of this Act | \$ | \$ 200,000 |
| d. For salaries, support, maintenance, and miscellaneous purposes for public interest crime prevention programs | \$ | \$ 60,000 |
| e. For preliminary breath test equipment | \$ | \$ 40,000 |
| 2. IOWA LAW ENFORCEMENT ACADEMY | | |
| For increased local police training | \$ | \$ 80,000 |
| 3. DEPARTMENT OF SOCIAL SERVICES | | |
| For salaries, support, maintenance, and miscellaneous purposes of the division of adult corrections for a corrections academy at Mount Pleasant | \$ | \$ 80,000 |

4. OFFICE FOR PLANNING AND PROGRAMMING

For salaries, support, maintenance, and miscellaneous purposes to support local staff performing pre-sentence investigations and probation supervision of persons accused of violating section 321.281 \$

\$ 320,000

Sec. 25. This Act takes effect July 1, 1982. However, payments for reparation under sections 5 through 16 of this Act shall only be made to victims of criminal acts which are committed on or after January 1, 1983.

Approved May 12, 1982

CHAPTER 1259
CHILD ABUSE PREVENTION
H.F. 2393

AN ACT creating a child abuse prevention program and a child abuse prevention program advisory council, providing an increase in certain fees, and providing an appropriation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. CHILD ABUSE PREVENTION PROGRAM.

1. A program for the prevention of child abuse is established within the state department of social services. Any moneys appropriated by the general assembly for child abuse prevention shall be used by the department of social services solely for the purposes of child abuse prevention and shall not be expended for treatment or other service delivery programs regularly maintained by the department. Moneys appropriated for child abuse prevention shall be used by the department through contract with an agency or organization which shall administer the funds with maximum use of voluntary administrative services for the following:

- a. Matching federal funds to purchase services relating to community-based programs for the prevention of child abuse and neglect.
b. Funding the establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.
c. To study and evaluate community-based prevention projects and educational programs for the problems of families and children.

Funds for the programs or projects shall be applied for and received by a community-based volunteer coalition or council.

2. The commissioner of social services may accept grants, gifts, and bequests from any source for the purposes designated in subsection 1. The commissioner shall remit funds so